

REMARKS

Upon entry of the above amendment, claims 1, 11, 12, and 28-48 will be pending in this application, claims 2-10 having been canceled without prejudice and new claims 32-48 added. Method claims 11, 12 and 28-31 were withdrawn as drawn to a nonelected invention; they are presently amended to ensure they are in condition for rejoinder with the composition claims under examination. Once the composition claims are deemed allowable, applicants request rejoinder of claims 11, 12, and 28-31.

Support for new claims 32, 37, 39, and 41 can be found at page 12, lines 21-26 of the specification. Support for new claims 33-35, 46 and 47 can be found at page 13, lines 16-19 of the specification. New claims 36, 38, 40, and 42-45 are identical in scope to cancelled claims 3, 5, 7, and 20-23, respectively. Support for new claim 48 can be found at page 5, lines 20-21.

The Advisory Action mailed July 30, 2007 (the "Advisory Action") indicated that claims 1, 3, 5, 7, and 20-23 were allowable. Allowable claims 3, 5, 7, and 20-23 have been canceled and replaced with new claims 36, 38, 40, and 42-45, respectively. As each of new claims 36, 38, 40, and 42-45 is identical in scope to a claim previously deemed allowable, these new claims 36, 38, 40, and 42-45 are also in condition for allowance. The Examiner is respectfully requested to confirm this, and to reconfirm that claim 1 remains allowable.

In the Office Action mailed March 22, 2007 (the "Office Action"), the Examiner rejected claims 2, 4, 6, and 8 as being anticipated by U.S. Patent No. 6,747,137 ("Weinstock"). The Examiner alleged that Weinstock disclosed a nucleic acid sequence (SEQ ID NO:3111) encoding a 9 amino acid sequence identical to a 9 amino acid fragment of SEQ ID NO:17, and thus anticipated claim 2 and its dependent claims 4, 6, and 8. In the Advisory Action, the Examiner further alleged that "the same 9mer sequence taught by Weinstock [NCTTNSSTS] is present not only in SEQ ID NO:17, but also in SEQ ID NOS:2 and 4." Claims 2, 4, 6, and 8 have been canceled without prejudice. To the extent the rejection over Weinstock may be applied against the new claims that recite "fragment" language, i.e., new claims 33-35, 46 and 47, applicants traverse.

The nucleic acid sequence that is taught by Weinstock and is relevant here is SEQ ID NO: 3111, which is the sense strand sequence of an ORF found in *C. albicans* genomic DNA and is one of over 14,000 different nucleic acid sequences disclosed by Weinstock. Applicants point out that the amino acid sequence NCTTNSSTS is encoded not by Weinstock's SEQ ID NO:3111, as alleged by the Examiner, but rather by a portion of what would be the antisense strand, or complement, of SEQ ID NO: 3111. That antisense strand's sequence does not appear in Weinstock. Nowhere does Weinstock disclose either an amino acid sequence containing NCTTNSSTS or a nucleic acid sequence that encodes NCTTNSSTS. Various general statements in Weinstock regarding antisense sequences do not amount to a disclosure of the sequence of the complement of SEQ ID NO: 3111, particularly given the total number of ORFs disclosed in Weinstock. Accordingly, Weinstock does not anticipate any of the present claims.

Further, applicants point out that new claim 35 has an additional distinction over Weinstock in that claim 35 requires that the fragment of SEQ ID NO:2, 4, or 17 be "more than 9 amino acid residues in length." The Examiner has not alleged that Weinstock discloses a nucleic acid encoding any fragment of SEQ ID NO:2, 4, or 17 more than 9 amino acid residues in length. This limitation also appears in new claim 47. Thus, claims 35 and 47 are even more clearly distinguished from Weinstock.

Finally, applicants note that new claim 46 is drawn to an isolated nucleic acid "consisting of" a nucleotide sequence encoding a fragment of SEQ ID NO:2, 4, or 17 at least 7 amino acid residues in length. Obviously neither Weinstock's SEQ ID NO: 3111 nor even the (undisclosed) complement thereof can be said to consist of such a sequence. Claim 47 depends from claim 46, so is distinguished from Weinstock for at least the same reasons.

Applicants respectfully request that the Examiner acknowledge the allowability of all of the claims over Weinstock.

Applicant : Masatsugu Maeda et al.
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Please apply the Petition for Extension of Time fee and any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 14875-096001.

Respectfully submitted,

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Janis K. Fraser, Ph.D., J.D.

Reg. No. 34,819

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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